



Questions and Answers for Owners or Operators of Concentrated Animal Feeding Operations (CAFOs)

Prepared by the Montana Department of
Environmental Quality
December 2003

On October 3, 2003, a Montana district court ordered the Montana Department of Environmental Quality (Department) to stop issuing water quality authorizations to concentrated animal feeding operations (CAFOs) under the Department General Permit until the Department has prepared an environmental impact statement (EIS) analyzing the effects of the General Permit. The court also suspended the authorization of a Billings-area feedlot that was a party to the litigation. Until an EIS is prepared for the General Permit, the Department is handling new applications under the individual permitting system, which involves issuing an individual permit for each facility, accompanied by a site-specific environmental assessment (EA). Since the court ruling, there has been some confusion regarding permitting requirements for CAFOs. The DEQ Water Protection Bureau is providing this information to help CAFO owners and operators understand how the court ruling may affect them.

What is a CAFO?

An animal feeding operation (AFO) is defined as a facility where cattle (or equivalent livestock) are confined for 45 days or more in a year and where crops or vegetation are not sustained during the normal growing season. A Concentrated Animal Feeding Operation (CAFO) is an AFO that has more than 1,000 cattle and has a potential to discharge wastes to state waters, or an AFO that has between 300 and 1,000 cattle and has an actual discharge to state waters, or an AFO that has 300 or less cattle and that is specifically designated a CAFO by the Department. If a facility meets the definition of a CAFO, it must have a water quality permit for any discharges to state waters, including discharges resulting from storm water runoff. The CAFO permit requires that there be **no** discharge of waste water to state surface waters except as overflow from a facility designed and operated to contain all the wastewater plus the runoff from major rainfall event for that location.

I'm an owner of a CAFO that is currently permitted under the DEQ's General Permit. Do I have to get a new permit?

No, not until the General Permit expires in 2005. The district court ruling suspending authorizations under the General Permit was limited to the Billings-area facility that was party to the litigation and to any new authorizations under the CAFO General Permit. When the General Permit expires, you will be required to apply for an individual permit or for an authorization under the new General Permit if the court-ordered EIS has been completed.

I'm the owner of an animal feeding operation with less than 1,000 head of cattle but I plan to expand soon. What do I have to do?

That depends on how large your operation becomes after the expansion. If, after expansion, you have more than 1,000 head of cattle, you are presumed to have a potential to discharge, and you must obtain a water quality permit. A facility with 301 to 1,000 cattle must obtain a permit only if it actually discharges pollutants to state waters. If you have 300 cattle or less you must have a permit only if the Department notifies you that it has designated you as a CAFO. CAFOs that discharge to state waters without a permit may be subject to civil penalties under the Montana Water Quality Act.

What is an environmental assessment? How long will it take me to get my permit?

An environmental assessment (EA) is a review conducted by the Department of the environmental impacts of issuing a permit to a facility. If an EA finds that there will be significant adverse environmental impacts caused by issuance of the permit, an environmental impact statement (EIS) must be prepared. In most cases an EIS is not necessary because the Department places conditions in the permit that will prevent significant adverse environmental impacts. As required by the October, 2003, district court order, the Department must prepare an EIS before issuing any new authorizations under the CAFO General Permit. Until the General Permit EIS is completed, the Department will handle new CAFO applications under the individual permitting system. This will require an individual permit for each facility, accompanied by a site-specific environmental assessment (EA). The processing time for an individual EA and permit is approximately 180 days.

Why has the permit fee increased?

The permit fees have not changed since the Board of Environmental Review adopted the new fee schedule in 2002. The application fee for CAFO general permits is either \$300 or \$450 depending on the size of the facility. The application fee for an individual Montana Pollutant Discharge Elimination System (MPDES) permit is \$2,500. Because the district court ruled that the Department may no longer use the general permit and must issue each facility an individual MPDES permit, the higher fee applies to any new application. For facilities that have not been permitted in the past, the application fee must include the application fee and the \$1,000 annual fee, or a total fee of \$3,500.

For more information on permitting requirements for livestock operations contact Kari Smith, DEQ Water Protection Bureau, at (406) 444-1454 or by e-mail at karsmith@state.mt.us.